

ALAN C. BRYAN ID No.: 4501

CROWLEY, HAUGHEY, HANSON,

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ATTORNEYS FOR FIRST INTERSTATE BANK

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF MONTANA

IN RE:) Bankruptcy No.: 06-60855-RBK-11

INCREDIBLE AUTO SALES LLC,) **MOTION TO MODIFY STAY**

Debtor.

The Motion of First Interstate Bank ("Bank"), secured creditor herein, respectfully represents:

1. The Debtor filed a Petition in this Court under Chapter 11 of the Bankruptcy Code on October 17, 2006.

2. Debtor is in possession of collateral which, upon information and belief, is owned by a third party and which is subject to Bank's first priority lien. Pursuant to Mont. LBR 4001-1, Bank provides the following information:

A. The present balance owing to Bank, excluding any pre-computed interest or other unearned charges, is \$3,380.72.

1 B. The date upon which the subject debt was incurred was June 17, 2005.

2 C. Bank holds a security interest upon the following described property which,
3 upon information and belief, is in possession of the Debtor:

4 2002 Daewoo Lanos, VIN KLATA52632B696523 (the "Vehicle").

5 D. On June 17, 2005, Scott Lawley entered into a Retail Installment Contract and
6 Security Agreement (the "Contract"), in writing, with Rimrock Chrysler Jeep of Billings,
7 Montana, for Scott Lawley's purchase of the Vehicle. A true and correct copy of the
8 Contract is attached hereto as Exhibit "A" and by this reference incorporated herein.

9 Thereafter, Rimrock Chrysler Jeep's interest in the Contract was in due course assigned to
10 Bank. Pursuant to the Contract, Bank has a security interest in the Vehicle. Bank perfected
11 that security interest by filing a Notice of Lien Filing with the Montana Department of Motor
12 Vehicles. A true and correct copy of the Notice of Lien Filing is attached hereto as Exhibit
13 "B" and by this reference incorporated herein. Upon information and belief, on or about
14 September 9, 2006, Scott Lawley entered into a Retail Installment Sale Contract with Debtor
15 wherein the Vehicle was traded to Debtor as part of the transaction. In the ordinary course of
16 business, the dealer pays off the outstanding balance of the debt against in the trade-in
17 vehicle, and obtains title to the same. This did not happen in the present case, and the full
18 balance of the Contract is due and owing, and Scott Lawley is in breach of the Contract.

19 E. A description of Bank's collateral, including its location, is as follows:

20 2002 Daewoo Lanos, VIN KLATA52632B696523

21 located in Debtor's possession.

22 F. The fair market value of Bank's collateral is estimated to be \$2,875.

23 G. There are no other security interests or liens which have priority over that of
24 Bank.

25 H. The Contract is in default for the October 17, 2006, installment.

1 I. This Motion is made under and pursuant to 11 U.S.C., § 362(d)(i) and
2 §362(d)(ii).

3 J. Other facts which are relevant in determining whether relief should be granted
4 are as follows: None.

5 3. Bank further represents that in the event the Court grants its Motion, Bank
6 will seek foreclosure and liquidation of the above-described collateral in accordance with
7 applicable non-bankruptcy law, and will dispose of the collateral in a commercially
8 reasonable manner.

9 4. Upon disposition, Bank shall account for all proceeds to the Court and agrees
10 to turn over any proceeds in excess of Bank's allowed secured claim to the Trustee.

11 **WHEREFORE**, Bank respectfully requests the Court to grant this Motion to Modify
12 the Stay imposed by §362(a) of the Bankruptcy Code.

13 Dated this 2nd day of November, 2006.

14 CROWLEY, HAUGHEY, HANSON,
15 TOOLE & DIETRICH P.L.L.P.

16
17 By /s/ Alan C. Bryan
18 ALAN C. BRYAN
19 P. O. Box 2529
20 Billings, MT 59103-2529
21 Attorneys for First Interstate Bank
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23
24
25

CERTIFICATE OF SERVICE

Under penalty of perjury, I hereby certify that on the 2nd day of November, 2006, I served a true and exact copy of the foregoing by depositing the same in the U. S. Mail, first-class postage prepaid, addressed to the following:

Clarke B. Rice
2951 King Ave West
Billings, MT 59102
By ECF Notice

William L. Needler
555 Stokie Blvd Ste 500
Northbrook, IL 60062
By ECF Notice

Neal G. Jensen
Assistant U.S. Trustee
Liberty Center, Suite 204
Great Falls, MT 59401
By ECF Notice

Incredible Auto Sales LLC
1832 King Ave West
Billings, MT 59102

Scott A. Lawley
3390 Canyon Dr, Unit D3
Billings, MT 59102-7069

/s/ Alan C. Bryan